ANDOVER BOARD OF HEALTH

Minutes March 12, 2012, 6:00 P.M. First Floor Conference Room 36 Bartlet Street

The Board of Health Meeting was called to order at 6:01 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, and Mr. Thomas G. Carbone, Director of Public Health. Ms. Katherine Kellman, Clerk, was not present due to a scheduling conflict.

I. Approval of Minutes

• February 13, 2012 (Regular Session)

Motion by Ms. Martin, seconded by Dr. Miller to approve the Minutes of the Board of Health Meeting of February 13, 2012. Unanimous approval.

• February 13, 2012 (Executive Session)

Ms. Martin tabled the Executive Session of February 13, 2012 for six months because the potential litigation is still a possibility.

• February 21, 2012

Ms. Martin tabled the Minutes of February 21, 2012 until the next scheduled Board of Health Meeting on April 9, 2012 because Ms. Kellman was not present to vote on approval.

II. Appointments & Hearings

• **6:00 p.m.** – **Eva Xu for Teatone, Show Cause Hearing (Continued)** – Present was Ms. Eva Xu, owner of Teatone Restaurant. Mr. Carbone explained that at the last meeting the Board asked for an additional inspection and creation of a daily checklist for cleaning. Ms. Xu stated that she now has a cleaning schedule in place (in both English and Chinese) and gave a copy to the Board for review. Ms Xu stated that the checklist states the areas to be cleaned daily and weekly and she has assigned staff to do different areas. If Ms. Xu is not there, then the person in charge assigns the duties to the staff. Ms. Xu gave the Board a copy of the last inspection that was conducted on March 6, 2012 by her Private Inspector, Michelle Cramm. Ms. Martin stated that this was the best inspection yet and asked Ms. Xu what changed. Ms. Xu stated that she reorganized the refrigerator and shelves to make things more efficient and easier to find things and clean properly. Ms. Xu took some pictures on her phone to show to the Board, and the Board saw how clean the restaurant is now. Ms. Martin stated that she was pleased with the attitude of Ms. Xu who now spoke with pride about the results of her cleaning efforts, instead of being defensive. Ms. Xu also informed the Board that she plans on doing some more

¹ The cleaning schedule has been inserted into the packet after page 9.

² The Inspection Report has been inserted into the packet after the cleaning schedule.

aesthetic changes in the Summer when business is slower such as replacing some tiles and doing some painting. The Board was pleased with Ms. Xu's progress and would like to see good monthly inspections for at least two to three months in a row, so would like to have Ms. Xu continue with monthly inspections at this time.

Motion by Ms. Martin, seconded by Dr. Miller, to continue the Show Cause Hearing until the June 4, 2012 Board of Health Meeting with monthly inspections to continue and be submitted to the Health Division. Unanimous approval.

• 6:10 p.m. – Gayle Wells for 21 Off Webster St. – Appeal of Condemnation ORDER (Continued) – Ms. Wells was not available to attend the Board of Health Meeting this evening, so Mr. Carbone recommended that the Board continue the Hearing.

Motion by Ms. Martin, seconded by Dr. Miller to continue the Appeal of Condemnation ORDER for 21 Off Webster St. to the next regularly scheduled Board of Health Meeting on April 9, 2012. Unanimous approval.

• 6:10 p.m. – Michelle Doucette for School's Out Summer Program – Request to Operate a Recreational Camp for Children at 47 River Road – Present was Ms. Michelle Doucette, Applicant. Ms. Doucette informed the Board that she met with Ms. Jane Morrissey, R.N. and Ms. Patricia Crafts, Health Agent, to get her camp started this year. Mr. Carbone read the Legal Ad that was placed in the paper (on page 12 of the packet). Ms. Doucette stated that her camp would be run in three sections – little children, which is a half day program, middle aged children, which is a school age group, and a CIT program. Since Ms. Doucette has begun the process, Mr. Carbone recommended that the Board approve the application subject to completion of the Health Staff review and receipt of all required documents.

Motion by Ms. Martin, seconded by Dr. Miller, to approve the School's Out Summer Program Recreational Camp for Children at 47 River Road, with the contingency that there are no other issues upon final review and approval of the application. Unanimous approval.

• 6:15 p.m. Attorney Robert Lavoie and Attorney Mark Tully for 26 Washington Avenue – Appeal of ORDERS (Continued) – Present was Attorney Robert Lavoie representing Attorney Mark Tully. Attorney Lavoie spoke with Attorney Tully this morning concerning the conditions set by the Board for a workplan for the first floor to be submitted by the ninth of March. It was reported that all the work on the second floor is completed except for the front door screen and doorbell repair, which will be repaired shortly. Still to be completed is the foundation repair in the basement. The first floor windows were prepared for painting, and work is intended to be done in stages. The workmen are working around the occupants. Ms. Martin asked if all the major issues had been addressed. Mr. Carbone stated that there have been no inspections yet, but there is so much to get done, that they need additional time for resolution. However good progress has been made. Attorney Lavoie requested that the Board continue the Appeal until the May Board of Health Meeting hoping for 100% completion and a final inspection by Health Staff before that time.

Motion by Ms. Martin, seconded by Dr. Miller, to continue the Appeal of ORDERS until the regularly scheduled Board of Health Meeting on May 7, 2012 for a status update.

• 6:20 p.m. – Susan Odle for 116 Osgood Street – Show Cause Hearing – Present was Town Counsel, Thomas Urbelis. Mr. Carbone informed the Board that he went by the property today and the bags are still all over the property. Ms. Martin asked what Ms. Odle meant when she stated that she was unable to come to the property due to a Capias Order and that there is court action that may be taken against her. Attorney Urbelis explained that the Capias Order was taken out against her because she did not show up for the Court Hearing for her Condo at 38 Michael Way. This is a Civil case and if she crosses the State line from New Hampshire into Massachusetts, a Deputy Sheriff or Constable could take her into custody. She has hired a new Attorney to help her get squared away with the Court so she can start to clean up her Osgood Street property. Ms. Martin expressed concern that Ms. Odle would just move the trash bags from her Osgood Street residence back to Michael Way. Attorney Urbelis stated that she could, but the Court Order would stop her from being able to do that. Attorney Urbelis advised the Board to work on this case from month to month. He also would like Ms. Odle's Attorney to contact him so they can discuss these issues.

Motion by Ms. Martin, seconded by Dr. Miller, to continue the Show Cause Hearing until the regularly scheduled Board of Health Meeting on April 9, 2012. Unanimous approval.

• 6:25 p.m. – Attorney Andrew Caffrey for 49 & 51R School Street; Appeal of Orders - Present were Attorney Andrew Caffrey and Chris Christoforo of 51R School Street. Attorney Caffrey informed the Board that he wrote to the Attorney for the Archdiocese on February 16th and explained about the Board of Health Meeting and the importance of a timely resolution to get this done. They offered to contribute \$12,000.00 to the Archdioceses to offset part of their cost of putting in the line provided they tie those two houses in. Attorney Caffrey got a letter back from the Archdiocese on March 5th rejecting that offer, saving that they had a proposal for the whole connection for almost \$48,000.00 and wanted the parties to contribute equally to the associated cost. The Fire Chief brought court action against the Archdiocese in Lawrence Housing Court. There was a meeting with the Fire Department and Attorney Fran O'Conner, the Attorney for the Archdiocese, where Attorney Caffrey offered to increase the offer from \$12,000.00 to \$15,000.00. The matter was continued to this morning and the Archdiocese claims that they have filed plans with the Town, and were going to pull permits today with the intention to start by March 26, 2012. Ms. Cristoforo has been in touch with contractor Michael Reilly to have him pull the necessary permits for them to put in their own individual water lines. Attorney Caffrey stated that he knew the deadline from the Board's last meeting was not met. Mr. Carbone explained that the permit would be pulled from the DPW Water Department, but he hasn't heard that the permit has been pulled. Mr. Carbone explained that when they left Housing Court this morning, Attorney O'Conner had represented to Judge Kirman that the Contractor expected to be starting work on March 26th, and the Judge took him at his word, so we fully expect that they will be breaking ground and installing that Fire Hydrant. In the meantime, we still have two residences without proper

water connections. Now the homeowners intend to go forward with their own individual lines.

Mr. Carbone stated that currently the Board has an outstanding ORDER to connect to water within 14 days, and that ORDER was stayed with the Appeal. If the Board upholds Mr. Carbone's ORDER, then that would give them 14 days to make the water connection. The Board also has the ability to uphold Mr. Carbone's ORDER and set an alternate date for compliance, or continue the Hearing again. Ms. Cristoforo stated that she had still hoped that the Archdiocese would accept their offer of \$15,000.00, so she has not hired Michael Reilly yet. He has been involved with the project and has priced things out for them, but she has not asked him for a specific date at this time. Attorney Caffrey requested that the homeowners have another month to arrange for the work to be contracted out. Mr. Carbone stated that the Board had a couple of options; continuing the Hearing or upholding the ORDERS with a longer time frame, which would close things out with a hard date for compliance. If compliance is not met, then there is the option for a Condemnation Hearing.

Motion by Ms. Martin seconded by Dr. Miller to uphold the ORDER with an extension of the compliance date to be completed by the next scheduled Board of Health Meeting on April 9th, 2012. Unanimous approval

III. Discussion

• Kristin Brosofsky, Intern – Discussion of Letter Grading Research – Ms. Brosofsky informed the Board that she had been doing a lot of research at this time. She has been reviewing the letter grading policies in various communities in the United States. She has been researching the pros and cons through the Annual Reports as well as literature searches and found some formal studies that have been conducted. She has looked in detail at Los Angeles, San Diego County, New York City, Maracoupa County, Arizona, Hartford, South Carolina, State of Mississippi. She is currently in contact with the head of the Health Department in North Carolina, and has a request out to Lynn, MA because she found that they have just implemented a letter grading system. Los Angeles County was the first to start looking into this back in the late 1990's and started implementing it in 1998. She cannot find a population level the same size as Andover to compare yet. Massachusetts is unique in that Public Health is done at the City and Town level, and the rest of the country tends to do it at the County or State level. She has done her research with literature, internet, and phone calls. Most communities have been very helpful in providing her with information. Los Angeles and New York are the places that have published reports.

Ms. Brosofsky found that there are different ways in which the grading system is done and variations on how the results are handled. The most common is the 100 point-based system, where they start with 100 points, and then you deduct points for violations. From 90 to 100 points gives them an A, 80 to 89 is a B, and below an 80 is either a C or a fail depending on the State or the County. In Los Angeles if you get two C's in a twelve month period, they can shut the restaurant down, but in San Diego, a C is considered a

failure. In New York City a C means you need to be re-inspected. In Hartford, if you get a C, that is considered business unfriendly. Some areas make the food establishment post the letter grade in the window, and some do not have that requirement. Some areas do not do a letter grade system at all; they just base their inspection letter grade on the type of violation. There is also a system that starts at 0 and accumulates points per violation. There is voluntary verses mandatory participation as well as posting of the letter grades. In some areas, if the posting is not mandatory, then you have to provide a copy to anyone who asks for it. There are specifications also on where the posting has to be located; usually as in the window where it can be clearly seen. Some have different colors for the letter grades, and some just post a colored placard that represents the level of cleanliness. Some areas place the grade in the Inspection Report, while others post the Inspection Report.

Some of the pros are that the letter grading system has resulted in improved sanitary conditions because the shift from reactive compliance to preventative maintenance provided an economic incentive to restaurants because now they are competing with hygiene as well as improved inspections. The Stanford Study found that within the first two years inspections scores were up 5% and over a ten year period, they went up 10 %. There have been improvements in the physical structures as well. They found a reduction in food borne illnesses after the first letter grading program was implemented in Los Angeles and was sustained over two more years of the study period out of Stanford, California. Surveys were conducted to make people more aware of the program and of hygiene awareness. Restaurants were found to be more motivated to enroll employees in food safety trainings, which was demonstrated by a record enrollment in Food Protection courses in some areas.

Some of the cons are that not all food establishments are alike. A grocery store could have more issues and be graded on the same point system as a restaurant. Food establishments didn't want to get a bad grade, and felt that sometimes Health Inspectors would be in a bad mood or come during the rush hour when things were not so perfect. Some of the Inspectors felt pressured to give higher scores. There was a concern that there would be no standardization for training.

Ms. Brosofsky informed the Board that most of the participants post their results on their websites. Most of these communities are large and have the resources to track and report on their results through a database. Ms. Martin stated that possibly the first step to decide to have a point system or not would be having that standardized inspection process with standards that need to be followed. She wondered if that would help with inspections. Mr. Carbone replied that right now Inspectors reflect whoever trained them individually, and as hard as we try to take away the biases that inspectors have, they still have them. One of the conversations that Ms. Brosofsky had with Dianne Bernazanni at the State Food & Drug Food Protection Program at the Department of Public Health mentioned a pilot program going on right now with B.U. School of Public Health developing a standardizing of Inspectors Training.

Ms. Brosofsky stated that Massachusetts had considered color coding back in 2007, but abandoned the idea because they didn't have the standardized system and Trainers. There is a Conference coming up next month and this is going up for potential national consideration to be added as an Annex to the Federal Food Code using the point-based system. It will be going for a vote next month, and if it is adopted nationally, it will be added to the new Federal Food Code that will be revised in 2013. If adopted, it would be up to individual communities if they wanted apply a letter grading or not. Mr. Carbone explained that the Federal Food Code is updated every two year, but we are still using the 1999 Food Code because there are issues within the industry each time that cannot be resolved.

Ms. Brosofsky had a meeting with area Health Directors and Westford, Wilmington and Middleton showed interest. Topsfield was there, but felt that their Board would not be willing to adopt a point system. Dr. Miller stated that he was very interested in the fact that Los Angeles had a decrease in food borne illnesses. Ms. Brosofsky replied that they have been in the program the longest and have had the best resources for use of this program. Ms. Brosofsky will get a copy of the article about the decrease in food borne illnesses and will have a summary for the Board at the next Board of Health Meeting.

- **Set Future Meeting Dates** The Board decided on the next Board of Health Meeting dates: Monday, May 7, 2012, Monday, June 4th, 2012, and Monday, July 9th, 2012.
- Sign Flu Clinic Volunteer Thank You Letters The Board signed the Thank You letters to be sent out to all the Flu Clinic Volunteers from the 2011-12 Flu Season.
- **CD&P Budget Presentation** Mr. Carbone informed the Board that he thought the budget presentation went well. Ms. Martin stated that the CD&P Department is almost all paid by the money collected for permitting and licensing fees. Mr. Carbone stated that employee benefits are still a large cost that would bring the Department down below the 90% of funding that shows on the charts.
- Annual Town Meeting Warrant Articles Mr. Carbone stated that the Fire Station and the Town Yard are the biggest issues this year. He did not see anything specifically that the Board needed to look at. Ms. Martin stated that she still has a great interest in updating the sewer expansion plan that the Town has done in the past, and she would like to put something together for next year.

IV. Old Business

• N/A

V. Definitive Subdivision Plans

N/A

VI. Plan Review

• N/A

VII. Staff Reports

A. Director's Reports:

- Intern Kristin Brosofsky
- Important Dates:
 - April 2-5: Director to Environmental Health Emergency Response Training – Mr. Carbone explained that this training was something he has been looking forward to participating in because it would allow us to either lead a team response in Andover or be part of a response team that offers mutual aid later.
 - ° April 9 at 6 p.m. Board of Health Meeting
 - ° April 18 Brosofsky Project Presentation
 - ° April 25-27: Director to Hazardous Material Training
 - ° April 30 Start of Annual Town Meeting
- New Permitting System ViewPermit Mr. Carbone informed the Board that on Friday, March 2, 2012, the Health Division went live with the new permitting system. The Administrative Assistant has been working closely with the Project Manager at ViewPoint to fix any issues going forward.
- Office Administrator Position Filled Mr. Carbone informed the Board that the Planning Secretary, Paula Hamel, has been promoted to the Office Administrator position. The Planning Secretary position will be posted next. Mr. Carbone explained that now that the Office Administrator position is filled, he can now be relieved of some of the administrative duties he has had to help out with and get settled back into his regular Health duties.
- B. **Nurses' Reports for February, 2012** The Nurses' Reports for February, 2012, were for informational purposes only.
- C. **Inspectors' Reports for February, 2012** The Inspectors' Reports for February, 2012 were for informational purposes only.

VIII. Board Member Reports

N/A

IX. Adjournment

Motion by Dr. Miller, seconded by Ms. Martin, to adjourn at 7:23 p.m. Unanimous approval.